

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT COLUMBUS**

MILOUS BROWN,

Plaintiff,

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Case No. 2:22-cv-2469

- vs -

District Judge Michael H. Watson  
Magistrate Judge Michael R. Merz

ANNETTE CHAMBERS-SMITH, et al.,

Defendants.

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**REPORT AND RECOMMENDATIONS**

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This case under 42 U.S.C. § 1983 is before the Court on Defendants' Motion to Dismiss (ECF No. 59). The Motion was filed August 16, 2023, making Plaintiff's opposition due September 11, 2023, under S. D. Ohio Civ. R. 7.2. Plaintiff sought and received an extension of time to respond to October 15, 2023 (ECF Nos. 60 & 61). However, that date has come and gone and Plaintiff has not opposed the Motion.

The operative pleading attacked by the Motion is the Amended Complaint (ECF No. 36). On August 9, 2023, the undersigned denied Plaintiff's Motion to file a Second Amended Complaint (ECF No. 58). That Order allowed Defendants to renew their motion to dismiss under Fed.R.Civ.P. 12(b)(6), which resulted in the instant Motion. Although Plaintiff was entitled to object to that Order, he never did so and it has now become the law of the case. That Order is incorporated herein by reference. Based on that Order, the Magistrate Judge finds the Amended

Complaint fails to state a claim upon which relief can be granted and respectfully recommends that the Amended Complaint be dismissed with prejudice. Because reasonable jurists would not disagree with this conclusion, it is also recommended that the Court certify to the Sixth Circuit that any appeal would be objectively frivolous and should not be permitted to proceed *in forma pauperis*.

November 21, 2023.

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

*s/ Michael R. Merz*  
United States Magistrate Judge